

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Barbara Beerhalter	Chair
Cynthia A. Kitlinski	Commissioner
Norma McKanna	Commissioner
Robert J. O'Keefe	Commissioner
Darrel L. Peterson	Commissioner

In the Matter of a Petition by the U.S. Department of Defense, the General Services Administration, and All Other Federal Executive Agencies of the United States Challenging the Reasonableness of the Rates Charged by Northwestern Bell Telephone Company

ISSUE DATE: January 28, 1988

DOCKET NO. P-421/C-86-354

O R D E R   V A R Y I N G   T I M E  
REQUIREMENTS FOR EXCEPTION TO  
THE ALJ'S REPORT AND ESTABLISHING  
SCHEDULES FOR ORAL ARGUMENTS

PROCEDURAL HISTORY

On June 9, 1986, the United States Department of Defense (DOD), on behalf of all the Federal Executive Agencies, filed a petition with the Minnesota Public Utilities Commission (the Commission), challenging the reasonableness of the rates charged by Northwestern Bell Telephone Company (NWB or the Company) for telephone services provided within the State of Minnesota. The Commission provided interested persons with an opportunity to comment, and set the matter for hearing.

The matter was referred to the Office of Administrative Hearings. Administrative Law Judge (ALJ) Bruce Campbell was assigned to the matter. Judge Campbell convened a prehearing conference on June 22, 1987. The Minnesota Department of Public Service (DPS), the Residential Division of the Office of the Attorney General (RUD-AG), the Minnesota Public Interest Research Group (MPIRG), and MCI Telecommunications Corporation (MCI) petitioned to intervene in this matter and were granted party status.

On January 22, 1987, the DPS, the RUD-AG, MPIRG, MCI, NWB, and the DOD filed an Offer of Settlement with the ALJ and the Commission.

On January 28, 1987, the ALJ issued his Report and Recommendation, and certified the settlement offer to the Commission.

## FINDINGS AND CONCLUSIONS

Under Minnesota Rules, part 7830.3900, parties may file exceptions to the ALJ's Report within 20 days of service of the Report.

Under Minnesota Rules, part 7830.4400, the Commission may vary any of its rules where it appears to the satisfaction of the Commission that enforcing the rule would impose an excessive burden upon the applicant or others affected by the rule, granting the variance would not adversely affect the public interest, and granting the variance would not conflict with standards imposed by law.

The Commission finds that enforcing Minnesota Rules, part 7830.3900, would impose an excessive burden on ratepayers and would not serve the regulatory process. The proposed settlement will give NWB's ratepayers a substantial rate reduction. It provides that the reduced rates will become effective on the day after the settlement becomes effective. The settlement becomes effective upon Commission approval or if the Commission orders modifications, after ten days if no party files written objection to the modifications. Allowing parties twenty days to file exceptions to the ALJ's Report would unnecessarily delay any rate relief that may be given through the proposed settlement or modifications to it. Further, if the Commission rejects the settlement, shortening the time for exceptions to the ALJ Report will allow the contested case proceeding to resume as soon as possible.

The Commission finds that varying Minnesota Rules, part 7830.3900, to require exceptions to the ALJ's Report to be filed on a shorter deadline will not adversely affect the public interest. It will serve the public interest since it will give the Commission sufficient time to carefully and thoroughly analyze the proposed settlement and take action on this matter as quickly as possible.

Finally, the Commission finds that varying Minnesota Rules, part 7830.3900, will not conflict with standards imposed by law. Minnesota Statutes § 14.61 (1986) requires that the ALJ's Report be made available to parties for at least ten days before the Commission makes its final decision in a proceeding. That statute also provides parties with an opportunity to file exceptions to the Report and to present oral argument. The purpose of Minnesota Statutes § 14.61 (1986) is served as long as the ALJ's Report is available for at least ten days and an opportunity to file exceptions and present oral argument is made available to all parties.

The Commission concludes that the requirements of Minnesota Rules, part 7830.4400, have been met and will order Minnesota Rules, part 7830.3900, varied. The Commission finds that shortening the time for the filing of exceptions to the ALJ's Report to Monday, February 8, 1988 will aid the Commission in resolving the issues presented in this matter. Written replies to exceptions will not be permitted. Finally, the Commission encourages parties to serve their exceptions to the ALJ's Report on the Commission and each other by an express mail type of delivery.

### ORDER

1. Minnesota Rules, part 7830.3900, is hereby varied as follows: Exceptions to the ALJ's Report in this matter must be delivered to the Commission and served on all parties no later than February 8, 1988.
2. Oral Argument on the proposed settlement will be held at 9:00 a.m. on Tuesday, February 9, 1988, in the Commission's Small Hearing Room, 715 American Center Building, 150 East Kellogg Boulevard, St. Paul, MN 55101. Parties supporting the proposed settlement will be allowed 15 minutes collectively to speak for its acceptance. Any person opposing the proposed settlement will be allowed 5 minutes to speak for its rejection or modification. Anyone interested in participating in the Oral Argument must contact Mark Oberlander of the Commission staff at 296-3793 no later than Monday, February 8, 1988.
3. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Mary Ellen Hennen  
Executive Secretary

(S E A L)